

FOX ROTHSCHILD LLP
321 N. Clark Street, Suite 800
Chicago, Illinois 60654
Telephone: (312) 541-0151
Allen J. Guon (*admitted pro hac vice*)

Attorneys for Sherthal, LLC

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

SEARS HOLDINGS CORPORATION,
et al.,¹

Debtors.

Chapter 11
Case No. 18-23538 (RDD)
(Jointly Administered)

**SHERTHAL, LLC'S SUPPLEMENTAL CURE CLAIM OBJECTION
FOR STORE NO. 4421 (NORTH HOLLYWOOD, CALIFORNIA)**

Sherthal, LLC ("Sherthal") pursuant to the *Order Approving Global Bidding Procedures and Granting Related Relief*, dated November 19, 2018 ("Global Bidding Procedures Order") and the Notice of Assumption and Assignment of Additional Designatable Lease ("Supplemental Assumption Notice"), hereby submits its supplemental cure claim objection ("Supplemental Cure Claim Objection") under Section 365(b) of title 11, United States Code ("Bankruptcy Code") for cure of defaults resulting from Kmart Corporation's proposed assumption and assignment of an unexpired nonresidential real property lease for Kmart Store No. 4421 located in North Hollywood, California.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are as follows: Sears Holdings Corporation (0798); Kmart Holding Corporation (3116); Kmart Operations LLC (6546); Sears Operations LLC (4331); Sears, Roebuck and Co. (0680); ServiceLive Inc. (6774); A&E Factory Service, LLC (6695); A&E Home Delivery, LLC (0205); A&E Lawn & Garden, LLC (5028); A&E Signature Service, LLC (0204); FBA Holdings Inc. (6537); Innovel Solutions, Inc. (7180); Kmart Corporation (9500); MaxServ, Inc. (7626); Private Brands, Ltd. (4022); Sears Development Co. (6028); Sears Holdings Management Corporation (2148); Sears Home & Business Franchises, Inc. (6742); Sears Home Improvement Products, Inc. (8591); Sears Insurance Services, L.L.C. (7182); Sears Procurement Services, Inc. (2859); Sears Protection Company (1250); Sears Protection Company (PR) Inc. (4861); Sears Roebuck Acceptance Corp. (0535); Sears, Roebuck de Puerto Rico, Inc. (3626); SYW Relay LLC (1870); Wally Labs LLC (None); Big Beaver of Florida Development, LLC (None); California Builder Appliances, Inc. (6327); Florida Builder Appliances, Inc. (9133); KBL Holding Inc. (1295); KLC, Inc. (0839); Kmart of Michigan, Inc. (1696); Kmart of Washington LLC (8898); Kmart Stores of Illinois LLC (8897); Kmart Stores of Texas LLC (8915); MyGofer LLC (5531); Sears Brands Business Unit Corporation (4658); Sears Holdings Publishing Company, L.L.C. (5554); Sears Protection Company (Florida), L.L.C. (4239); SHC Desert Springs, LLC (None); SOE, Inc. (9616); StarWest, LLC (5379); STI Merchandising, Inc. (0188); Troy Coolidge No. 13, LLC (None); BlueLight.com, Inc. (7034); Sears Brands, L.L.C. (4664); Sears Buying Services, Inc. (6533); Kmart.com LLC (9022); and Sears Brands Management Corporation (5365). The location of the Debtors' corporate headquarters is 3333 Beverly Road, Hoffman Estates, Illinois 60179.

1. On October 15, 2018 (“Petition Date”), Sears Holdings Corporation and several of its affiliates, including Kmart Corporation, filed voluntary petitions under chapter 11 of the Bankruptcy Code.

2. As of the Petition Date, Sherthal was the landlord and Kmart Corporation (“Debtor”) was the tenant under a lease of nonresidential real property located in North Hollywood, California (Kmart Store No. 4421) dated as of April 7, 1970, as amended and modified from time to time (“Lease”).

3. On January 18, 2019, the Debtor served Sherthal with its *Notice of Cure Costs and Potential Assumption and Assignment of Executory Contracts and Unexpired Leases in Connection with Global Sale Transaction* (“Assumption Notice”).² In the Assumption Notice, the Debtor indicated that the Lease may be assumed and assigned in connection with the sale of the Global Assets and asserted that no Cure Amount was due under the Lease.

4. On January 23, 2019, Sherthal filed *Sherthal, LLC’s Cure Claim Objection for Store No. 4421 (North Hollywood, California)* and asserted a monetary cure claim in an amount not less than \$36,417.04, a copy of which is attached as Exhibit 1. [Docket No. 1769.]

5. On April 19, 2019, Transform Holdco LLC (“Transform Holdco”) served Sherthal with the Supplemental Assumption Notice. [Dkt. No. 3298.] In the Supplemental Assumption Notice, Transform Holdco indicated that that the Lease would be assumed and assigned to Buyer or an affiliated entity. Transform Holdco asserted that no Cure Amount was due under the Lease.

6. Contrary to the Supplemental Assumption Notice, the Debtor is in default of its monetary obligations under the Lease by failing to pay additional rent including real estate taxes, insurance, percentage rent and other fees, including including attorneys’ fees.

² Capitalized terms not defined herein shall have the meanings ascribed to them in the Assumption Notice.

7. Sherthal's monetary cure claim as of the filing of this Supplemental Cure Claim Objection with respect to the Lease is an amount not less than \$36,417.04, plus accrued attorneys' fees.

8. The categorical breakdown of the monetary cure claim is as follows:

Category	Amount
Real estate taxes for the period of July 1, 2018 – October 14, 2018	\$12,041.39
Real estate taxes for the period January 1, 2019 – June 30, 2019	\$20,561.24
Insurance	\$3,329.99
Los Angeles annual inspection fees	\$484.42
Percentage Rent	\$5,000.00 (estimated). The Debtor has not provided sales information to calculate percentage rent due under the Lease
Attorneys' fees	\$8,169.50, plus additional accrued fees and expenses
TOTAL	An amount not less than \$49,856.54

9. In order to assume and assign the Lease, the Debtor must cure the aforementioned defaults.

10. This Supplemental Cure Claim Objection is without prejudice to the fact that other and additional cure claim amounts (a) may exist and/or may become known at a future date and (b) will accrue on an ongoing basis between the filing of this Cure Claim Objection and any subsequent assumption of the Lease. Sherthal expressly reserves its right to amend or supplement

its Supplemental Cure Claim Objection though and including the effective date of any proposed assumption and assignment of the Lease.

FOX ROTHSCHILD LLP
Attorneys for Sherthal, LLC

By: /s/Allen J. Guon

Allen J. Guon, Esq.
Fox Rothschild LLP
321 N. Clark Street, Suite 800
Chicago, Illinois 60654
Telephone: (312) 541-0151
E-Mail: aguon@foxrothschild.com

Dated: April 24, 2019
Chicago, Illinois

CERTIFICATE OF SERVICE

Allen J. Guon certifies that he caused to be served a true and correct copy of the attached **Sherthal, LLC's Supplemental Cure Claim Objection For Store No. 4421 (North Hollywood, California)** via transmission of Notice of Electronic Filing generated by CM/ECF on all parties of record, and on parties listed below as indicated.

FOX ROTHSCHILD LLP
Attorneys for Sherthal, LLC

By: /s/Allen J. Guon

Allen J. Guon, Esq.
Fox Rothschild LLP
321 N. Clark Street, Suite 800
Chicago, Illinois 60654
Telephone: (312) 541-0151
E-Mail: aguon@foxrothschild.com

SERVICE LIST

VIA EMAIL

I. Bid Notice Parties

a. Debtors

Rob Riecker: rob.riecker@searshc.com
Luke Valentino: luke.valentino@searshc.com
Mohsin Meghji: mmeghji@miiipartners.com
General Counsel: counsel@searshc.com

b. Debtors' counsel

Ray Schrock, Esq.: ray.schrock@weil.com
Jacqueline Marcus, Esq.: jacqueline.marcus@weil.com
Garrett A. Fail, Esq. garrett.fail@weil.com
Sunny Singh, Esq. sunny.singh@weil.com
Ellen J. Odoner, Esq. Ellen.Odoner@weil.com
Gavin Westerman, Esq. Gavin.Westerman@weil.com

c. Debtors' investment banker:

Brandon Aebersold and Levi Quaintance: project.blue.rx@lazard.com

II. Buyer Parties

a. Buyer

Kunal S. Kamlani: kunal@eslinvest.com

Harold Talisman: harold@eslinvest.com

b. Counsel

Christopher E. Austin, Esq.: caustin@cgsh.com

Benet J. O'Reilly, Esq.: boreilly@cgsh.com

Sean A. O'Neal, Esq.: soneal@cgsh.com

III. Consultation Parties

a. Bank of America

Paul Leake, Esq.: Paul.Leake@skadden.com

Shana Elberg, Esq.: Shana.Elberg@skadden.com

George Howard, Esq.: George.Howard@skadden.com

b. Wells Fargo Bank

Kevin J. Simard, Esq.: ksimardachoate.com

Jonathan D. Marshall, Esq.: jmarshall@choate.com

c. Committee

Ira S. Dizengoff, Esq.: idizengoff@akingump.com

Philip C. Dublin, Esq.: pdublin@akingump.com

Abid Qureshi, Esq.: aqureshi@akingump.com

Sara L. Brauner, Esq.: sbrauner@akingump.com

VIA FIRST CLASS MAIL

Transform Holdco, LLC
c/o ESL Partners, Inc.
Attention: Kunal S. Kamlani and Harold
Talisman
1170 Kane Concourse, Suite 200
Bay Harbor Islands, FL 33154

Cleary Gottlieb Steen & Hamilton LLP
Attention: Christopher E. Austin,
Benet J. O'Reilly and Sean A. O'Neal
One Liberty Plaza
New York, NY 10006

Sears Holdings Corporation
Attn: General Counsel
3333 Beverly Road
Hoffman Estates, IL 60179

Weil, Gotshal & Manges LLP
Attention: Ray C. Schrock, P.C.,
Ellen J. Odoner, Gavin Westerman and
Sunny Singh
767 Fifth Avenue
New York, New York 10153